

**CONTROLLED SUBSTANCE DATABASE -
REPORTING CONVICTIONS FOR DRIVING
UNDER THE INFLUENCE OR IMPAIRED
DRIVING**

2010 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill amends provisions of the Traffic Code and the Utah Controlled Substances Act to provide for notification to a practitioner when a person is convicted of a crime for driving under the influence of, or impaired driving under the influence of, a controlled substance that the practitioner may have prescribed to that person.

Highlighted Provisions:

This bill:

- ▶ requires a court to report certain information to the Division of Occupational and Professional Licensing (DOPL) when a person is convicted of driving under the influence or of impaired driving, if there is evidence that the person's driving was under the influence of, or impaired by, a prescribed controlled substance;
- ▶ requires that, when DOPL receives a report described in the preceding paragraph, DOPL must notify each practitioner that may have written a prescription for the controlled substance of the conviction and certain information relating to the conviction; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-502, as last amended by Laws of Utah 2005, Chapter 91 and renumbered and

amended by Laws of Utah 2005, Chapter 2

41-6a-502.5, as last amended by Laws of Utah 2009, Chapter 201

ENACTS:

58-37-7.9, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-6a-502** is amended to read:

41-6a-502. Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration -- Reporting of convictions.

(1) A person may not operate or be in actual physical control of a vehicle within this state if the person:

(a) has sufficient alcohol in the person's body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test;

(b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or

(c) has a blood or breath alcohol concentration of .08 grams or greater at the time of operation or actual physical control.

(2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.

(3) A violation of this section includes a violation under a local ordinance similar to this section adopted in compliance with Section 41-6a-510.

(4) If there is evidence that a person who is convicted of a violation of this section was driving under the influence, in whole or in part, of a prescribed controlled substance, the court shall send a report to the Division of Occupational and Professional Licensing, created in Section 58-1-103, of:

(a) the conviction;

(b) the type of controlled substance that contributed to the impairment, if known; and

(c) the name of each person who prescribed the controlled substance to the convicted person, if known.

Section 2. Section **41-6a-502.5** is amended to read:

41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing requirements.

(1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of impaired driving under this section if:

(a) the defendant completes court ordered probation requirements; or

(b) (i) the prosecutor agrees as part of a negotiated plea; and

(ii) the court finds the plea to be in the interest of justice.

(2) A conviction entered under this section is a class B misdemeanor.

(3) (a) (i) If the entry of an impaired driving plea is based on successful completion of probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

(ii) If the defendant fails to appear before the court and establish successful completion of the court ordered probation requirements under Subsection (1)(a), the court shall enter an amended conviction of Section 41-6a-502.

(iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of conviction.

(b) The court may enter a conviction of impaired driving immediately under Subsection (1)(b).

(4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor violation of Section 41-6a-502 as impaired driving under this section is a reduction of one degree.

(5) (a) The court shall notify the Driver License Division of each conviction entered under this section.

(b) If there is evidence that a person who is convicted of a violation of this section was driving while impaired, in whole or in part, by use of a prescribed controlled substance, the court shall send a report to the Division of Occupational and Professional Licensing, created in Section 58-1-103, of:

(i) the conviction;

(ii) the type of controlled substance that contributed to the impairment, if known; and

(iii) the name of each person who prescribed the controlled substance to the convicted

94 person, if known.

95 (6) (a) The provisions in Subsections 41-6a-505(1), (2), and (3) that require a
96 sentencing court to order a convicted person to participate in a screening, an assessment, or an
97 educational series, or obtain substance abuse treatment or do a combination of those things,
98 apply to a conviction entered under this section.

99 (b) The court shall render the same order regarding screening, assessment, an
100 educational series, or substance abuse treatment in connection with a first, second, or
101 subsequent conviction under this section as the court would render in connection with applying
102 respectively, the first, second, or subsequent conviction requirements of Subsection
103 41-6a-505(1), (2), or (3).

104 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section
105 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the
106 reporting court notifies the Driver License Division that the defendant is participating in or has
107 successfully completed the program of a driving under the influence court.

108 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:

109 (i) a CDL license holder; or

110 (ii) a violation that occurred in a commercial motor vehicle.

111 Section 3. Section **58-37-7.9** is enacted to read:

112 **58-37-7.9. Reporting certain convictions to practitioners.**

113 (1) The definitions in Subsection 58-37-7.5(1) apply to this section.

114 (2) If the division receives a report from a court under Subsection 41-6a-502(4) or
115 41-6a-502.5(5)(b) relating to a conviction for driving under the influence of, or while impaired
116 by, a prescribed controlled substance, the division shall:

117 (a) attempt to identify, through the database, each practitioner who may have
118 prescribed the controlled substance to the convicted person; and

119 (b) provide each practitioner identified under Subsection (2)(a) with:

120 (i) a copy of the information provided by the court; and

121 (ii) the information obtained from the database that led the division to determine that
122 the practitioner receiving the information may have prescribed the controlled substance to the
123 convicted person.

124 (3) It is the intent of the Legislature that the information provided under Subsection

- 125 (2)(b) is provided for the purpose of assisting the practitioner in:
126 (a) discussing the manner in which the controlled substance may impact the convicted
127 person's driving;
128 (b) advising the convicted person on measures that may be taken to avoid adverse
129 impacts of the controlled substance on future driving; and
130 (c) making decisions regarding future prescriptions written for the convicted person.

Legislative Review Note
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Office of Legislative Research and General Counsel